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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,411	02/20/2002	Avner Schneur	11951-009001	1565
51414 7590 02/26/2007 GOODWIN PROCTER LLP PATENT ADMINISTRATOR EXCHANGE PLACE BOSTON, MA 02109-2881			EXAMINER SHAAWAT, MUSSA	
			ART UNIT	PAPER NUMBER
			3627	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/26/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/081,411

Applicant(s)

SCHNEUR ET AL.

Examiner

Mussa A. Shaawat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **RESPONSE TO AMENDMENT**

1. This action is responsive to the Amendment received on October 24, 2006. Claims 1, and 8 have been amended. Claims 15-20 have been newly added. Claims 1-20 are pending examination.

2. The rejection is respectfully maintained as set forth in the last Office Action mailed on April 20, 2006. Applicants' arguments have been fully considered but they are not persuasive and the old rejection is maintained.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davenport et al. (2003/0033236) in view of Lee (2003/0088494).

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Davenport et al. discloses a computer-implemented method for determining an optimal award schedule and satisfying a purchase requisition with the steps of:

receiving, from each of a plurality of candidate suppliers (via sellers 201), a corresponding plurality of bids (via submitting bids on combinations of items);

receiving, from a candidate supplier, an *explicit* offer of a business volume discount that is triggered when purchase from the candidate supplier at least one unit of a first qualifying item and at least one unit of a second qualifying item has an aggregated volume within a defined volume interval (such as sets or bundles of commodities via combinational and volume-discount auctions; (see ¶s 0064-0073).

Davenport et al. further receiving, from the at least one candidate supplier, a first bid in which each item recited in the first bid belongs to no more than one item-category (as illustrated by bid B2 for item {1}), and receiving, from the at least one candidate supplier, a first bid in which at least one item recited in the first bid belongs to both a first item-category and a second item-category (see ¶s 0081-0082).

*Davenport et al. teaches a buyer constraint prior to determining the optimal award schedule, changing the buyer constraint and re-determining the award schedule, and storing a supplier profile corresponding to a candidate supplier, see (see ¶s 0040).*

However, Davenport et al. fails to explicitly disclose determining an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition.

Lee discloses the concept of completing a transaction process that enables one or more buyers who select one or more sell bids as winning bids to purchase one or

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more products and/or services specified in the sell bids. Where a sell bids sell bid creation process enables one or more sellers to create one or more sell bids with one or more attribute values.

From this teaching of Lee, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the modeling of cost minimizing bid set of Davenport et al. to include the sell bids aggregation system as taught by Lee in order to facilitate negotiation on one or more deals.

### **Response to Arguments**

6. Applicant's arguments have been fully considered but they are not deemed to be persuasive. Applicant argues in substance that:

(A) Davenport fails to teach a mechanism that allows a potential supplier to explicitly specify a business volume discount associated with a bid.

Response: Each bid (i.e. supplier) offers a price at which the bidder is willing to supply the combination of items in the bid, minimum and maximum quantity constraint's that can be allocated to each supplier (i.e. volume discount associated with bid), see (¶s 0064-0073). In addition examiner noted that the winning bid taught by Davenport would be the explicit offer because it includes item, quantity and price (i.e. offer) of the supplier, therefore, Davenport meets the scope of the claimed limitation explicitly specifying a business volume discount associated with a bid.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### **Contact Information**

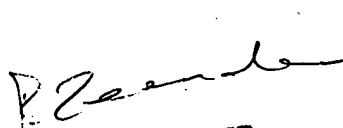
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mussa A. Shaawat whose telephone number is 571-272-2945. The examiner can normally be reached on Mon-Fri (8:00 am- 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mussa Shaawat  
Patent Examiner  
February 9, 2007

 2/15/07  
F. RYAN ZEENDER  
PRIMARY EXAMINER